

REMARKS

Claims 1, 4-10, 12 and 14-21 are pending in this application and have been maintained unchanged. Claims 6, 10, 14, 16 and 17 were deemed to present allowable subject matter and only were rejected as being dependent upon rejected claims. Claims 1, 4, 5, 7-9, 12, 24, 15 and 18-21 have been rejected. Claims 1 and 9 remain independent.

The Examiner is thanked for the indicated allowability of claims 6, 10, 14, 16 and 17. Those claims have been maintained because, as explained below, the claims from which they depend themselves are believed to be allowable.

In the following discussion, Applicant respectfully traverses all objections and rejections, and does not acquiesce in any regard to averments made in the outstanding Office Action (unless Applicant expressly indicates otherwise).

The Rejections Under 35 U.S.C. § 103

Claims 1, 5, 7-9, 15 and 18-21 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. patent no. 6,218,911 to Kong et al. view of U.S. patent appln. publn. no. 2007/0256917 to Oberhammer et al. Applicant respectfully traverses this rejection, and submits the following arguments in support thereof.

Oberhammer cannot be applied in this rejection, since Oberhammer is not prior art. Oberhammer has an effective date of **September 9, 2004**, and is not prior art against this application, which is the national stage of international patent application no. PCT/IB2004/050974, filed on **June 23, 2004**, before Oberhammer's effective date.¹

Furthermore, the international patent application upon which this application is based claims the priority of English-language European patent application nos. 03101911.0 and 03104042.1, respectively filed on June 26, and October 31, 2003. Certified copies of those priority applications were filed in this application on December 21, 2005, and are present in the image file wrapper.

¹ Pursuant to M.P.E.P. § 706.02(f)(1), Oberhammer's effective date is its international filing date. Oberhammer's foreign priority claim is irrelevant here -- M.P.E.P. § 2136.03(I) notes that 35 U.S.C. § 102(e) speaks of "an application for patent . . . filed in the United States", and states that "[f]oreign applications' filing dates that are claimed (via 35 U.S.C. 119(a) - (d), (f) or 365(a)) in applications, which have been published as U.S. or WIPO application publications or patented in the U.S., **may not be used as 35 U.S.C. 102(e) dates for prior art purposes**" (emphasis added). So Oberhammer's claim to the foreign priority of a Swedish patent application filed in 2003 is irrelevant.

Since Oberhammer is not available as prior art, this rejection must be withdrawn.

Claims 4 and 12 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Kong and Oberhammer as applied above, and further in view of Figs. 5a-b of Kong. Applicant respectfully traverses this rejection, and submits the following arguments in support thereof.

As noted above, Oberhammer is not prior art against this application. Accordingly, favorable consideration and withdrawal of this rejection are respectfully requested.

CONCLUSION

Applicant respectfully submits that all outstanding rejections have been addressed and are now overcome. Applicant further submits that all claims pending in this application are patentable over the prior art. Accordingly, favorable consideration and prompt allowance of this application are respectfully requested.

No fees are believed to be due in connection with the filing of this paper. If, however, the Commissioner deems any fee(s) to be now or hereafter due in connection with this application, authority is given to charge all such fees to Deposit Account No. 50-4019.

In the event that there are any questions, or should additional information be required, please contact Applicant's attorney at the number listed below.

Respectfully submitted,

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